



# STAFF RECOMMENDATION

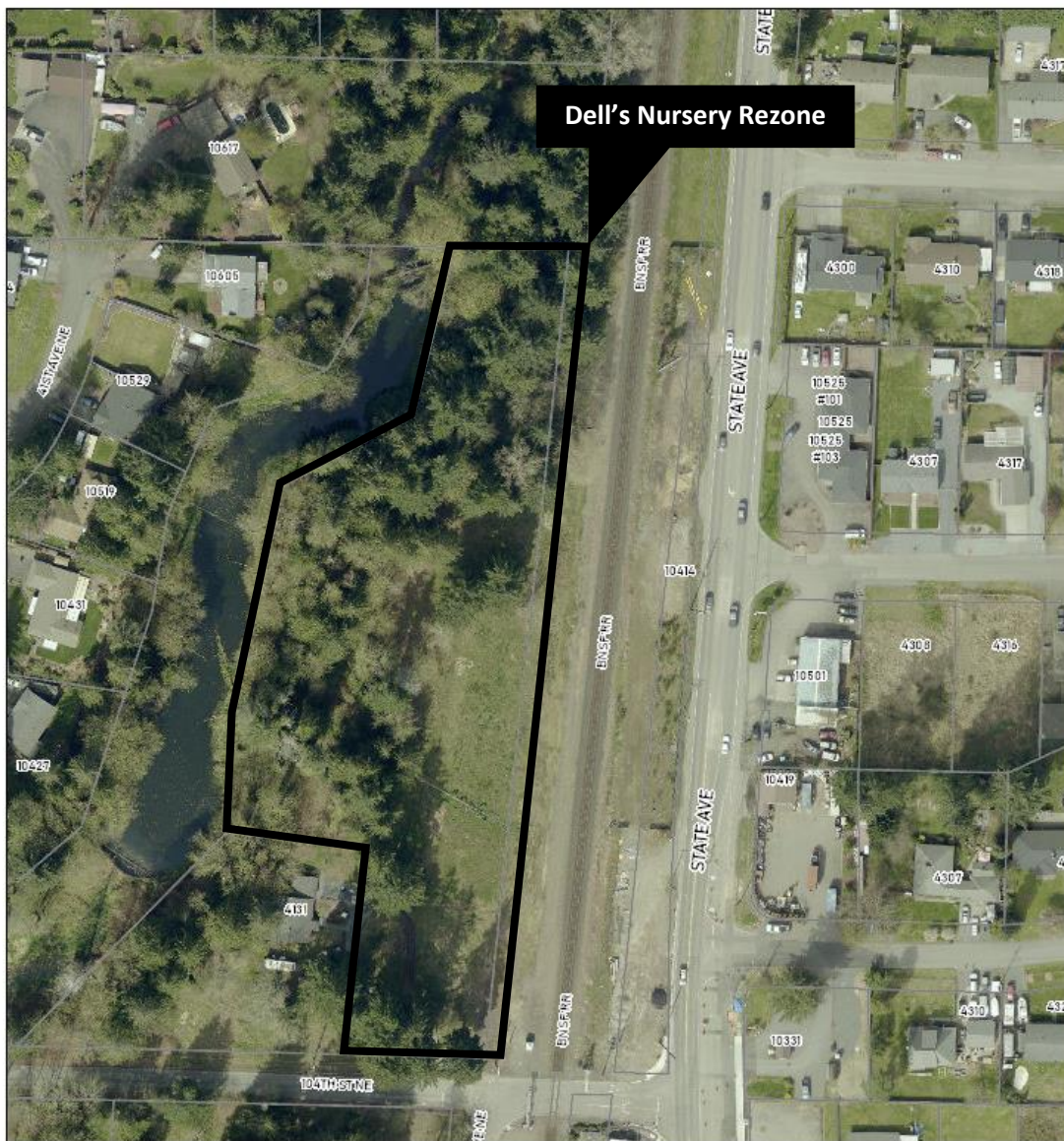
Community Development Department ♦ 501 Delta Avenue ♦ Marysville, WA 98270  
 Office Hours: Mon - Fri 8:00 AM - 4:30 PM ♦ Phone: (360) 363-8000

PROJECT INFORMATION										
<b>Project Title</b>	Dell's Nursery Rezone			<b>Date of Report</b>	September 19, 2023					
<b>File Number</b>	PA 22041			<b>Attachments</b>	See Section 3.0 for links to Exhibits					
<b>Administrative Recommendation</b>	Approve the preliminary Commercial Site Plan and Concurrent Rezone from Medium Density, Single-family (R-4.5) to General Commercial (GC) in order to construct two single story office/warehouse buildings totaling approximately 30,600 SF.									
BACKGROUND SUMMARY										
<b>Applicant</b>	104 <sup>th</sup> Street LLC									
<b>Request</b>	The applicant is requesting Site Plan Approval and Concurrent Rezone from Medium Density, Single-family (R-4.5) to General Commercial (GC) in order to construct two single story office/warehouse buildings totaling approximately 30,600 SF.									
<b>SEPA Status</b>	A SEPA Mitigated Determination of Non-Significance was issued on July 21, 2023. The appeal period expired August 4, 2023; no appeals were filed.									
<b>Location</b>	Northwest corner of 104 <sup>th</sup> Street NE and 42 <sup>nd</sup> Avenue NE			<b>APNs</b>	30051600200100 & 30051600200300					
<b>Acreage (SF)</b>	3.19-acres (138,956 SF)			<b>Section</b>	16	<b>Township</b>	30N	<b>Range</b>	05E	
<b>Comprehensive Plan</b>	Single Family Medium	<b>Zoning</b>	R-4.5	<b>Shoreline Environment</b>			N/A			
<b>Water Supply</b>	<b>Current</b>	<b>Proposed</b>		<b>Sewer Supply</b>	<b>Current</b>		<b>Proposed</b>			
	Marysville	Marysville			Marysville	Marysville				
<b>Present Use of Property</b>	Vacant undeveloped land.									
REVIEWING AGENCIES										
<b>Marysville</b>	<b>Local Agencies &amp; Districts</b>		<b>State &amp; Federal</b>		<b>County</b>		<b>Other</b>			
<input checked="" type="checkbox"/> Building <input checked="" type="checkbox"/> Fire District <input checked="" type="checkbox"/> Development Services <input type="checkbox"/> Parks <input checked="" type="checkbox"/> Planning <input checked="" type="checkbox"/> Police <input checked="" type="checkbox"/> Public Works	<input type="checkbox"/> Arlington (city) <input type="checkbox"/> Arlington Airport <input checked="" type="checkbox"/> Comcast <input type="checkbox"/> Community Transit <input type="checkbox"/> Marysville Fire District <input checked="" type="checkbox"/> PUD No. 1 <input checked="" type="checkbox"/> Ziplly		<input checked="" type="checkbox"/> BNSF <input checked="" type="checkbox"/> DAHP <input checked="" type="checkbox"/> DOE <input checked="" type="checkbox"/> US Army Corp of Engineers <input checked="" type="checkbox"/> WDFW <input type="checkbox"/> WSDOT <input checked="" type="checkbox"/> WUTC		<input checked="" type="checkbox"/> Health District <input type="checkbox"/> Planning <input checked="" type="checkbox"/> Public Works - Land Development <input type="checkbox"/> Public Works <input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> Puget Sound Clean Air <input type="checkbox"/> Puget Sound Energy <input checked="" type="checkbox"/> Stillaguamish Tribe <input checked="" type="checkbox"/> Tulalip Tribes <input checked="" type="checkbox"/> Parties of Record			
ACTION										
<input type="checkbox"/> Administrative	<input type="checkbox"/> City Council	<input checked="" type="checkbox"/> Quasi-Judicial		<input type="checkbox"/> Planning Commission						
<b>Date of Hearing</b>	September 28, 2023		<input checked="" type="checkbox"/> Approved		<input type="checkbox"/> Denied		<input type="checkbox"/> Continued			
STAFF CONTACT										
<b>Name</b>	Chris Holland		<b>Title</b>	Planning Manager		<b>Phone</b>	360.363.8207		<b>E-mail</b>	<a href="mailto:cholland@marysvillewa.gov">cholland@marysvillewa.gov</a>

**SURROUNDING USES**

	<b>Comprehensive Plan</b>	<b>Zoning</b>	<b>Land Use</b>
<b>Site</b>	Single-family, Medium Density	R-4.5	Vacant
<b>North</b>	Single-family, Medium Density	R-4.5	Single-family residence on acreage
<b>East</b>	Single-family, Medium Density	R-4.5	BNSF Railway & State Avenue
<b>South</b>	General Commercial	GC	Vacant
<b>West</b>	Single-family, Medium Density	R-4.5	Single-family residences & Quilceda Creek

**Vicinity Map**



**1.0 FINDINGS AND CONCLUSIONS**

- 1. Description of Proposal:** An application was submitted by 104<sup>th</sup> Street LLC for a Project Action Rezone to change the zoning designation from Medium Density, Single-family (R-4.5) to General Commercial (GC) in order to construct two single story office/warehouse buildings totaling approximately 30,600 SF. Pursuant to [MMC Chapter 22G.010 Article I Consolidated Application Process](#), the City consolidates development permit application review. Therefore, both the Project Action Rezone and Commercial Site Plan review require a public hearing.
- 2. Project Location:** The proposed Project Action Rezone and Commercial Site Plan is located at the northwest corner of 104<sup>th</sup> Street NE & 42<sup>nd</sup> Avenue NE and is identified as Assessor’s Parcel Numbers (APN) 30051600200100 & 30051600200300.
- 3. Site Description:** The project site is undeveloped and heavily vegetated with grasses, bushes, blackberry vines, ferns, ivy, and variable diameter trees. Most of the site is nearly level to slightly sloping downward to the west. There are steep slopes extending downward to the west near the west property line. The slope areas are 20 to 30 feet tall with magnitudes of 30 to 60 percent.
- 4. Letter of Completeness:** The application was submitted on November 4, 2022 and determined to be complete on that date. A letter of completeness (Exhibit 021) was provided to the applicant in accordance with MMC [22G.010.050](#).
- 5. Public Notice:** Public notice of the development application (Exhibit 022) was provided in accordance with MMC [22G.010.090](#).

**5.1.** The notice of application was issued November 4, 2022 with comments requested by December 2, 2022. The following public comments were received as outlined in Exhibit 025 *Technical Review Comments*:

**5.1.1** Robert Herndon (Exhibit 025, page 30 of 36)

Summary of Comments: We only have one way in and out of here (Hidden Lakes and Indian Trails development), 10 extra houses have been added and now someone wants to put in offices on the north side of 104<sup>th</sup>.

Trains coming by multiple times during the day and night.

I have seen ambulances stuck at the railroad tracks because of trains blocking 104<sup>th</sup>. Please don’t put these offices in.

How are we supposed to deal with the extra traffic this office complex will bring? It’s a bad idea.

Is the city going to push a street in to help with congestion?

On the west side of the tracks, it’s residential. Commercial should stay on the east side of the tracks.

Applicant’s Response: Appreciate your comments, of course we cannot do anything with “ambulances stuck at the railroad tracks because of trains blocking 104<sup>th</sup>”. Nor can we control the “trains coming by multiple times during the day and night”. These are existing issues that were there when this community was built, the train tracks have been there a “hundred years” and most the homes were built in the 1970s.

Traffic from this warehouse will be a lot more compatible with existing residential traffic than adding another residential development. The Commercial traffic Peak Hours will be entering the area in the morning as the residential traffic is going out and the opposite in the afternoon Peak Hour. A

new residential development will be more frustrating as that traffic would add to the existing in and out traffic.

There have been several attempts at finding a second way in but this area is isolated by terrain and these RR Tracks. The best way out is to the north but that land is owned now by the Tulalip Tribes and, so far, there has been little to no interest in developing that land to allow for another access.

The property south of 104th and west of the tracks, just south of 104th from this property, is zoned commercial. Planning wise, this isolated property is not ideal residential property as it is situated right on the tracks and is adjacent to other Commercial zones. And as stated above, traffic from this commercial development will be coming in while the existing community traffic will be going out. Commercial Traffic will be more compatible to the existing residential traffic.

Staff Response: The applicant completed a Traffic Impact Analysis that was reviewed and approved by Jesse Hannahs, PE, Traffic Engineering Manager. It is anticipated that approximately 84 Average Daily Trips (ADT) 10 AM Peak Hour Trips (AMPHT) and 10 PM Peak Hour Trips (PMPHT) would be generated from the development. The additional trips would not cause the intersection of 104<sup>th</sup> Street NE and State Avenue to fall below an acceptable level of service.

If developed residentially, approximately 14 new single-family detached residences could be constructed. According to the ITE Trip Generation Manual, 14 new single-family residences would generate 132 ADT, 10 AMPHT and 14 PMPHT, which is greater than the anticipated trips for the proposed commercial development.

Condition No. 3 of the Mitigated Determination of Non-Significance (MDNS) and Traffic Concurrency Determination requires the applicant to conduct an engineering evaluation, or study, of the impacts of the proposal to determine whether the existing protection at the crossing will be adequate or whether improvements are warranted. If improvement are warranted, the applicant shall petition the Washington Utilities and Transportation Commission (UTC) for approval of the improvements prior to construction.

BNSF would not approve a secondary railroad crossing access to this neighborhood, nor would it be feasible with the existing critical areas. The City of Marysville will continue to work with the property owners north of the neighborhood to provide a secondary access via 38<sup>th</sup> Drive NE; however, this is private property and the City does not control development rights of these properties and would be unable to condemn property owned by the Tulalip Tribes.

**5.1.2** Nancy Rutherford (Exhibit 025, pages 31 & 32 of 36).

Summary of Comments: I have lived in Hidden Lakes Estates for 45 years. I am the longest resident of this neighborhood.

I am certain the city planners are aware there is only one outlet from our neighborhood. The city in the past years permitted 12 more homes to be built in the neighborhood without a reasonable plan to wisely evacuate people should the need arise. Over the last few months, the train has blocked the tracks no less than five times, where people were trapped in the neighborhood. A couple of years ago I was called to help a neighbor who was gasping for breath, when I called 911 the train was blocking the tracks and the aide car could not get in. Given the limited access this neighborhood has, I do not think it is a wise idea to add businesses to the equation. Once the

City gives out a Commercial permit the other parcels of land not yet developed will bring in more businesses and more people to evacuate.

Secondly, I notice that some of the old-growth trees have already been cut down. These trees have served as a wonderful barrier between our houses and the noise and coal dust coming from the trains. The more trees that are cut down the noise level in our neighborhood and homes will increase. We already have serious amounts of coal dust on our driveway and can't imagine what will happen if more of the old-growth trees are cut down.

Lastly, this neighborhood is a housing development and not a business district, there are plenty of parcels of land outside of housing neighborhoods. Build the office buildings and businesses there and leave our neighborhood alone.

Applicant's Response: I am sure your experiences are frustrating. The issues you describe though, will still be issues to your neighborhood with or without this Commercial development. The alternative evaluated would have provide more single-family homes or Duplexes using the existing zoning and entitlements. The commercial traffic has an opposite flow that would not impact existing use of the roads as much as new residential traffic which would be competing with existing cars as their ingress and egress timing would add to the traffic flow.

There is a significant tree barrier left between this project and the residential neighborhood. These commercial buildings will offer better noise abatement from the trains.

I would certainly agree that your side of the ravine should remain residential. It is not very practical to build homes so close to the RR. The land just south of 104th is also zoned Light Industrial [GC] and this proposed land use is compatible with the existing zoning of other lands on the east side of the ravine immediately adjacent to the Tracks.

First, I would say this is not exactly "in your neighborhood". This property is separated from your neighborhood by a significant ravine. This property is also across the street from property currently zoned Light Industrial [GC] and is immediately adjacent to the Burlington Northern Rail Road tracks. If you owned this property, what would you want to do with it?

Second, when you moved into the neighborhood say mid-1970s, there was [were] 4 billion people on the planet, now we are hitting 8 billion. These people all need homes and jobs and per the Growth Management Act (GMA), 95% of this growth is to take place within the Urban Growth Boundaries (UGA). We are trying to make the best use of this land per GMA directions and take a direction that will be of least impact to your neighborhood.

Unfortunately, if you live in the UGA there will be a lot of change coming to our neighborhoods.

Staff Response: As noted above, BNSF would not approve a secondary railroad crossing access to this neighborhood, nor would it be feasible with the existing critical areas. The City of Marysville will continue to work with the property owners north of the neighborhood to provide a secondary access via 38<sup>th</sup> Drive NE; however, this is private property and the City does not control development rights of these properties and would be unable to condemn property owned by the Tulalip Tribes.

If the rezone were approved and construction of the proposed buildings were to occur the buildings would act as noise attenuation to the neighborhood. Additionally, the applicant shall be required to enhance the critical area buffer by planting shrubs not less than 5 feet on-center and trees no less than 10

feet on-center. Additionally, a minimum 20 foot, Type L1 (opaque) landscape buffer is required to screen any commercial use from residentially designated properties.

**5.1.3** Brittany Belton (Exhibit 025, pages 33 – 36 of 36)

Summary of Comments: I live in Hidden Lake Estates. Being a Land Use Planner myself I am not against people building things, but I do have a concern of the traffic impact that this will cause.

I am not happy about a huge warehouse going in as well, noting that there is a wetland buffer removal of 3,000sf.

Do you see any concerns with the impact of traffic this will cause? There is only one way in and one way out of 104th. We already have issues with the stupid train.

That is a lot of parking spaces too that I see on the site plan.

I am sorry if I am being harsh but to me this seems a little out of touch given that it is more residential than a commercial area to me.

I just now realizes this is a rezone which I am against the rezone for this. Just thinking about the traffic issues with the train being there is going to be a big problem. The train gets stopped at 104th a lot. I have had to wait for 2 hours one time for the train to move before I could get through. This will back up traffic on to State Ave.

Applicant's Response: Traffic timing and flow described above. The flow and timing of the LI [GC] Traffic would not add to the residential flow and timing. Your long wait was perpetrated by the Train Traffic and not by existing traffic. Future traffic generated by this project would not exasperate the issues with train traffic.

Development per existing zoning would generate traffic that would be cumulative to the existing residential traffic. This proposal would not add to traffic flow and timing of the existing traffic as described earlier.

The proposed LI buildings would also add to noise abatement from the trains where a residential development per the existing zoning would not.

I have also need to mention, that the trains and train tracks were there long before the homes were built. It is a nice little neighborhood and I can see the attractants for wanting to live there, but the train had to be a known distractant when the decision was made to move into this neighborhood.

Staff Response: As noted above, the applicant completed a Traffic Impact Analysis that was reviewed and approved by Jesse Hannahs, PE, Traffic Engineering Manager. It is anticipated that approximately 10 AM Peak Hour Trips (7 – 9AM) and approximately 10 PM Peak Hour Trips (4 – 6PM) would be generated from the development. The additional trips would not cause the intersection of 104<sup>th</sup> Street NE and State Avenue to fall below an acceptable level of service.

If developed residentially, approximately 14 new single-family detached residences could be constructed. According to the ITE Trip Generation Manual, 14 new single-family residences would generate 132 ADT, 10 AMPHT and 14 PMPHT, which is greater than the anticipated trips for the proposed commercial development.

Condition No. 3 of the Mitigated Determination of Non-Significance (MDNS) and Traffic Concurrency Determination requires the applicant to conduct an engineering evaluation, or study, of the impacts of the proposal to determine whether the existing protection at the crossing will be adequate or whether

improvements are warranted. If improvements are warranted, the applicant shall petition the UTC for approval of the improvements, prior to construction.

BNSF would not approve a secondary railroad crossing access to this neighborhood, nor would it be feasible with the existing critical areas. The City of Marysville will continue to work with the property owners north of the neighborhood to provide a secondary access via 38<sup>th</sup> Drive NE, however, this is private property and the City does not control development rights of these properties and would be unable to condemn property owned by the Tulalip Tribes.

The applicant has proposed buffer averaging pursuant to [MMC 22E.010.100\(5\)\(a\)](#) (also see Section 8 Critical Areas below). As compensation for the removal of 3,022 of the required 100 foot Category II wetland buffer, an additional 4,809 SF of buffer is proposed to be added. A final buffer mitigation plan will be required to be prepared and approved by the Community Development Department, prior to any construction activity on-site, whether the rezone is approved or if future residential development were to occur on-site.

**5.2.** The public hearing for the proposed request was advertised in accordance with [MMC 22G.010.110](#), *Notice of public hearing* (Exhibit 051).

**6. Request for Review:** A Request for Review of the proposed development was sent to the Local, County, State & Federal Agencies and Districts identified on page 1 of this report. The following comments were received; if the above-referenced agencies are not listed below, no comments were received:

Agency	Nature of Comment
<b>Marysville Fire District</b>	<ul style="list-style-type: none"> <li>• <i>Fire alarm and fire sprinkler systems will be required for all buildings.</i></li> <li>• <i>Fire does not oppose the rezoning.</i></li> <li>• <i>Access shown appears inadequate. Access minimum 26' wide meeting additional city fire code requirements for aerial fire apparatus access will be required depending on the building height. See MMC 9.04.503.1.5.</i></li> <li>• <i>Water main extensions with approved fire hydrants will be required onsite. The building sprinkler system FDC is required to be located within 3' to 10' from a fire hydrant.</i></li> <li>• <i>The current spacing of existing roadway fire hydrants does not appear to meet the current fire code requirements for this use. Maximum hydrant spacing of 300' apart is allowed.</i></li> <li>• <i>The developer will be required to provide fire flow information.</i></li> </ul>
<b>Washington State Department of Ecology (DOE)</b>	<ul style="list-style-type: none"> <li>• <i>The Site Plan and other drawings show the wetland boundary/edge of water based on a 2006 survey. We only trust wetland boundaries for 5 years so did Ed Sewall actually flag this boundary? Or did he just confirm that a 16 year old delineation looked about right? He did his site visits in 2018 and 2020 but it wasn't clear whether he had the boundary resurveyed.</i></li> </ul>

<p><b>Snohomish County Public Utility District No. 1 (PUD)</b></p>	<ul style="list-style-type: none"> <li>• <i>The District presently has enough electric system capacity to serve the proposed development. However, the existing District facilities in the local area may require upgrading.</i></li> <li>• <i>The District requires a minimum 14-foot clearance from any structure to accommodate workers, scaffolding and ladders. Minimum worker safety clearance from 115kV transmission wires is 20 feet.</i></li> <li>• <i>Any relocation, removal or undergrounding of District facilities to accommodate this project and the worker safety clearances shall be at the expense of the project developer and must be coordinated with the PUD in advance of final design. Please include any project related utility work in all applicable permits.</i></li> <li>• <i>There are several critical-area permit matters that will need to be addressed for utilities to be installed. All applicable utility work should also be included in the SEPA. Please also include any required utility work in the scope of all applicable land use/development permits including for any planned over- or under-stream and wetland utility crossings and for the storm water permit.</i></li> </ul>
<p><b>Washington Utilities and Transportation Commission (UTC)</b></p>	<ul style="list-style-type: none"> <li>• <i>As stated in the MUTCD, because of the large number of significant variables to be considered, no single standard system of traffic control devices is universally applicable for all highway/rail grade crossings. The appropriate traffic control system to be used at a highway-rail grade crossing should be determined by an engineering study involving both the highway agency (road authority) and the railroad company.</i></li> <li>• <i>The City of Marysville and the railroad should conduct an engineering evaluation or study of the impacts of the proposal to determine whether the existing protection at the crossing will be adequate or whether improvements are warranted. If the parties determine, through that engineering evaluation/study, that crossing improvements are warranted, the parties would petition the UTC for approval of those improvements prior to construction.</i></li> </ul>

**7. State Environmental Policy Act Review:** A State Environmental Policy Act (SEPA) Mitigated Determination of Non-Significance (MDNS) was issued on July 21, 2023 (Exhibit 045). The appeal period expired August 4, 2023; no appeals were filed.

**7.1.** The following public comments were received upon issuance of the MDNS, which are included in Exhibit 049:

**7.1.1** Morgan Krueger, WDFW Habitat Biologist (Exhibit 049, pages 1 – 4 of 14)

Summary of Comments: On the landscape plan, the applicant does not seem to include their plans for the 'wetland buffer addition'. A clear plan outlining how this area will be restored and monitored is needed.

It would be great if the maps provided could depict the pond feature. I'm having trouble visualizing how close the reduction in buffer is to the impounded area of water that is considered part of the wetland. I'm imaging the amount of water in this pond-like feature (very obvious on aerial imagery)



increases in the wet season, causing concern for flooding if the buffer is reduced close to this feature.

I'm also curious if this is a beaver pond. If so, there might be even greater flooding issues that crop up in this project site in the future. According to the Surface Water Comp Plan, 2016, pg. 20:

QC11 (Formerly WQ-WQ-08) Undersized Culvert along a Tributary to West Fork Quilceda Creek at 104th Street NE. The 4-foot box culvert conveying water beneath 104th Street NE along Lower West Fork Quilceda Creek (SD-CV-42) was identified in the 2009 Comp Plan as undersized, and as a potential barrier to fish passage. It was also noted that beaver dams just downstream from the culvert were contributing to flooding, and had caused the culvert to become clogged with silt. In 2010, emergency maintenance was conducted, which resulted in the beaver dams being removed, and the culvert being cleaned out. A 24-inch culvert was also installed above the ordinary high water mark to reduce flooding. A reevaluation of the culvert was conducted for current fish passage standards, and the existing configuration was determined to be a velocity barrier for fish passage. The recommended solution for this issue is to replace the existing 4-foot box culvert with a 50-foot prefabricated bridge along 104th Street to improve fish passage.

Judging by the multiple reasons for flood concerns, this culvert should really be considered for replacement. I've spent years working in beaver conflict mitigation, and it would be better to get ahead of this than to get behind when flooding has occurred and it's too late.

When were the wetland boundaries surveyed? The information provided made this unclear. The ponded area could be much bigger if these measurements are taken from the 2006 survey.

Applicant's Response: Detailed Mitigation plans with details plantings will be submitted with the Civil Construction Plans.

We do show the edges of the wetland boundary along this property and CA features that might have an impact on the use of this property. The "pond" is offsite and not a feature relevant to the use of this project.

We only have information that this pond was not originally created by beavers. There may be beaver activity now but that is not relevant to this project.

I cannot speak technically to the undersized culvert and it may very well should be replaced but it is not connected to work on this project. This project will be providing 100% infiltration and not discharging on the surface into this stream or pond. There will no impacts to the flows in this drainage coming from this project.

This was a question also asked by Doug Gresham from DOE and the Biologist gave detailed response. In Short Ed Sewall's response was "the Critical Areas were flagged originally September 10th, 2018. The Site was revisited August 13, 2020 confirming there were not changes to CAs from the 2018 flags. All flags were in place and verified as appropriately placed.

Staff Response: Prior to any construction activity the applicant shall be required to submit a FINAL Critical Areas Mitigation Plan, developed in accordance with [MMC Chapter 22E.010 Critical Areas Management](#), and approved by the Community Development Department.

The City would not require off-site mitigation of replacing the existing culvert whether the site was developed residentially, or commercially. The City of

Marysville has adopted a Surface Water Comprehensive Plan as a subelement of the Marysville Comprehensive Plan and has identified both the Culvert Removal and Bridge Installation at 104<sup>th</sup> Street NE (QC11) and 103<sup>rd</sup> Street NE (QC12). Timing of this improvement is unknown. The City is actively seeking grant funds to make these improvements.

**7.1.2 Robert Herndon (Exhibit 049, pages 5 – 9 of 14)**

Summary of Comments: We have enough trouble getting in and out of our neighborhood because of trains and the additional 10 houses that were built behind Del's old nursery. Traffic will be impacted more because their driveway will be located right by the Railroad crossing. I have seen these tracks blocked by broken down trains with ambulances waiting to get into our neighborhood. Are you going to give us another street to get out of here when traffic gets backed up? Also there are no businesses on this side of the tracks. We don't need more traffic. Use some of the many empty business that already in Marysville, for instance over by 88th where Penske rentals is.

The city should put a crossing just north of 104<sup>th</sup> for the business park only and leave 104<sup>th</sup> for residents of Hidden Lakes and Indian trails.

Applicant's Response: We appreciate your comments, of course we cannot do anything with "ambulances stuck at the railroad tracks because of trains blocking 104th". These are existing issues that were there when this community was built, the train tracks have been there a "hundred years" and most the homes were built in the 1970s.

Traffic from this warehouse will be a lot more compatible with existing residential traffic than adding another residential development. The Commercial traffic Peak Hours will be entering the area in the morning as the residential traffic is going out and the opposite in the afternoon Peak Hour. A new residential development will be more frustrating as that traffic would add to the existing in and out traffic.

The property south of 104th and west of the tracks, just south of 104th from this property, is zoned General Commercial. Planning wise, this isolated property is not ideal residential property as it is situated right on the tracks and is adjacent to other Commercial zones. And as stated above, traffic from this commercial development will be coming in while the existing community traffic will be going out. Commercial Traffic will be more compatible to the existing residential traffic.

There have been several attempts at finding a second way in but this area is isolated by terrain and these RR Tracks. The best way out is to the north but that land is owned now by the Tulalip Tribes and, so far, there has been little to no interest in developing that land to allow for another access.

Staff Response: The applicant completed a Traffic Impact Analysis that was reviewed and approved by Jesse Hannahs, PE, Traffic Engineering Manager. It is anticipated that approximately 84 Average Daily Trips (ADT) 10 AM Peak Hour Trips (AMPHT) and 10 PM Peak Hour Trips (PMPHT) would be generated from the development. The additional trips would not cause the intersection of 104<sup>th</sup> Street NE and State Avenue to fall below and acceptable level of service.

If developed residentially, approximately 14 new single-family detached residences could be constructed. According to the ITE Trip Generation Manual, 14 new single-family residences would generate 132 ADT, 10 AMPHT and 14 PMPHT, which is greater than the anticipated trips for the proposed commercial development.

Condition No. 3 of the Mitigated Determination of Non-Significance (MDNS) and Traffic Concurrency Determination requires the applicant to conduct an engineering evaluation, or study, of the impacts of the proposal to determine whether the existing protection at the crossing will be adequate or whether improvements are warranted. If improvements are warranted, the applicant shall petition the UTC for approval of the improvements, prior to construction.

BNSF would not approve a secondary railroad crossing access to this neighborhood, nor would it be feasible with the existing critical areas. The City of Marysville will continue to work with the property owners north of the neighborhood to provide a secondary access via 38<sup>th</sup> Drive NE; however, this is private property and the City does not control development rights of these properties and would be unable to condemn property owned by the Tulalip Tribes.

**7.1.3 Nancy Rutherford (Exhibit 049, page 10 of 14)**

Summary of Comments: For the fifth time (or more this year) the train had an issue that blocked traffic from coming in or going out of the neighborhood causing a backup on State Ave and on 104<sup>th</sup>. And now the City of Marysville is considering a proposal to add warehouses that would employ 60 people, add 81 parking stalls, and make approximately 90 trips in and out of the neighborhood (which has only one way in and one way out, requiring a railroad crossing) which already has approximately 300 people living in the neighborhood using this one access. The City is actually considering doing this without making any changes to the entrance/exit such as a traffic light, roundabout, or four-way stop. Has the City forgotten that State Ave. is in the process (as we speak) of going to five lanes of traffic already making it a challenge to get in and out of the neighborhood? This is an accident looking for a place to happen and it will be on City when it does. Does the City understand that there is only one way in and out of this neighborhood, and that should be a huge consideration before the City agrees to allow commercial usage to be developed in the neighborhood?

Applicant's Response: I am sure your experiences are frustrating. The issues you describe though, will still be issues to your neighborhood with or without this Commercial Development. The alternative evaluated would have provide more single-family homes or Duplexes using the existing zoning and entitlements. The commercial traffic has an opposite flow that would not impact existing use of the roads as much as new residential traffic which would be competing with existing cars as their ingress and egress timing would add to the traffic flow.

Staff Response: As noted above, the applicant completed a Traffic Impact Analysis that was reviewed and approved by Jesse Hannahs, PE, Traffic Engineering Manager. It is anticipated that approximately 84 Average Daily Trips (ADT) 10 AM Peak Hour Trips (AMPHT) and 10 PM Peak Hour Trips (PMPHT) would be generated from the development. The additional trips would not cause the intersection of 104<sup>th</sup> Street NE and State Avenue to fall below and acceptable level of service.

If developed residentially approximately 14 new single-family detached residences could be constructed. According to the ITE Trip Generation Manual, 14 new single-family residences would generate 132 ADT, 10 AMPHT and 14 PMPHT, which is greater than the anticipated trips for the proposed commercial development.

Condition No. 3 of the Mitigated Determination of Non-Significance (MDNS) and Traffic Concurrency Determination requires the applicant to conduct an engineering evaluation, or study, of the impacts of the proposal to determine

whether the existing protection at the crossing will be adequate or whether improvements are warranted. If improvements are warranted, the applicant shall petition the UTC for approval of the improvements, prior to construction.

BNSF would not approve a secondary railroad crossing access to this neighborhood, nor would it be feasible with the existing critical areas. The City of Marysville will continue to work with the property owners north of the neighborhood to provide a secondary access via 38<sup>th</sup> Drive NE, however, this is private property and the City does not control development rights of these properties and would be unable to condemn property owned by the Tulalip Tribes.

**7.1.4** Stephan Engberg (Exhibit 049, page 11 of 14)

Summary of Comments: I am extremely worried about how much traffic this is going to add to the neighborhood. We only have 1 entrance and 1 exit at this time. Adding 90+ cars to this will cause a lot of issues with people trying to get in and out. We already have enough issues over the past 3 years with all the construction on state at 104<sup>th</sup>. What will Marysville do to help with the influx of traffic in the neighborhood.

Applicant's Response: Traffic created by this Industrial Proposal will actually be equal to or less than traffic that would be created by a Residential Development that could be permitted per existing entitlements. The advantage of the Commercial Use is that traffic would pulse opposite the existing residential traffic. Morning traffic from the residents would be outbound while the commercial traffic would be inbound and would be the opposite for afternoon traffic. The traffic from this industrial proposal would be a lot less impactful than that created by a residential development.

Staff Response: As noted above, the applicant completed a Traffic Impact Analysis that was reviewed and approved by Jesse Hannahs, PE, Traffic Engineering Manager. It is anticipated that approximately 84 Average Daily Trips (ADT) 10 AM Peak Hour Trips (AMPHT) and 10 PM Peak Hour Trips (PMPHT) would be generated from the development. The additional trips would not cause the intersection of 104<sup>th</sup> Street NE and State Avenue to fall below an acceptable level of service.

If developed residentially, approximately 14 new single-family detached residences could be constructed. According to the ITE Trip Generation Manual, 14 new single-family residences would generate 132 ADT, 10 AMPHT and 14 PMPHT, which is greater than the anticipated trips for the proposed commercial development.

The City of Marysville will continue to work with the property owners north of the neighborhood to provide a secondary access via 38<sup>th</sup> Drive NE; however, this is private property and the City does not control development rights of these properties and would be unable to condemn property owned by the Tulalip Tribes.

**7.1.5** Rich Barnett (Exhibit 049, page 12 of 14)

Summary of Comments: I've lived in the Hidden Lakes area for over 40 years and during that time the increased traffic on Smokey Point Boulevard sometimes makes the wait to get in and out of the neighborhood over five minutes long.

I have personally witnessed three accidents going in and out of the neighborhood. They were T-bone accidents for people trying to get onto State Street.

Without some traffic answer for a development that might have anywhere from 100 to 120 cars per day. The city has a responsibility to the residents of this neighborhood to keep them safe.

Unless the City of Marysville has a plan to put a stoplight at that intersection any additional use of that intersection is going to result in more and more accidents.

In the interest of public safety, you must object to any further development of a commercial type in this area, unless steps are taken to ensure resident safety.

Applicant's Response: Traffic is a frustrating issue in all the urban areas. Until there is a better way like Autonomous Ubers, I believe this issue, at all intersections, will be frustrating. Unfortunately, this is not the only intersection to experience accidents. It is my understanding that the accident history here is not considered to be excessive.

To be clear, there it is not predicted there will be 120 cars a day. The Average Daily Trips determined by a Traffic Engineer is 84. To add, the outbound morning peak hour trip generation is calculated to be 1.23 trips and 8.33 inbound (opposite to residential trips). Afternoon trips are calculated to generate 1.55 inbound and 8.14 outbound (again opposite to residential Traffic).

This proposed project would have significantly less traffic impact to the existing residents than a Residential Development.

Staff Response: As noted above, the applicant completed a Traffic Impact Analysis that was reviewed and approved by Jesse Hannahs, PE, Traffic Engineering Manager. It is anticipated that approximately 84 Average Daily Trips (ADT) 10 AM Peak Hour Trips (AMPHT) and 10 PM Peak Hour Trips (PMPHT) would be generated from the development. The additional trips would not cause the intersection of 104<sup>th</sup> Street NE and State Avenue to fall below and acceptable level of service.

If developed residentially, approximately 14 new single-family detached residences could be constructed. According to the ITE Trip Generation Manual, 14 new single-family residences would generate 132 ADT, 10 AMPHT and 14 PMPHT, which is greater than the anticipated trips for the proposed commercial development.

A traffic signal is not warranted for this intersection based on review of both existing and proposed trips. In review of the accident data from the Washington State Patrol, there have been three accidents documented at this intersection in the last five years. All of the accidents were non-injury collisions for failing to yield or following to close.

#### **7.1.6** Margaret Natterstad (Exhibit 049, page 13 of 14)

Summary of Comments: I am very concerned about the number of parking spaces for this project... the number of proposed vehicle trips per day and the current difficulties getting in and out of our neighborhood on State Avenue.

I also think that visibility will be a problem with the railroad tracks and the entrance to these two buildings heading west on 104<sup>th</sup>. For example during snowy weather, the road can be extremely icy around the railroad tracks and could further cause problems. It's possible because of the proximity to the railroad tracks that someone going to these two building might overshoot the entrance and then have to drive into our neighborhood in order to turn around. In icy weather the dip creates a huge problem with vehicles stuck for someone not familiar with driving on it.

I remember when the widening of State Avenue was proposed, a traffic count was done on 104th but that was many years ago. We need a current traffic count. Since the last traffic count there have been 11 additional homes built (approx. 140 homes total), and because of Covid, people have been ordering online with more delivery vehicle trips per day. Since our neighborhood only has one road in/out to leave onto State Avenue, I think a stoplight will be necessary. Even with the roadwork being done now, the cars have been speeding by and I know of at least 3 accidents that have occurred. Businesses on the east side of State Avenue have also contributed to accidents and near misses. Also 104th St. and 104th Pl. don't line up, causing confusion in the middle turn lane.

Some of the things I've mentioned can't be addressed, but a stoplight is necessary on State Avenue and 104th, especially because of this project and the proposed vehicle trips per day this project will cause.

Applicant's Response: Traffic Generation Information has been provided. Please review answers to others on similar concerns.

Staff Response: The proposed project has been reviewed by the Public Works Department – Engineering Division and no sight distance issues have been identified.

103<sup>rd</sup> Street NE and 104<sup>th</sup> Street NE are on the City's sand/plow list and 104<sup>th</sup> Street NE is also included on the City's anti-ice list.

The most recent traffic counts have been provided to Ms. Natterstad.

A traffic signal is not warranted for this intersection based on review of both existing and proposed trips.

**7.1.7 James Carew (Exhibit 049, page 14 of 14)**

Summary of Comments: There is a great concern with the people living in the neighborhood about putting in a commercial building by the railroad tracks. It is already difficult to get out of the neighborhood with all the traffic/construction on State Ave. (most of us have waited 5+ minutes to turn left).

The added 80-90 trips will pose a risk to anyone living in the neighborhood if there is an emergency. There is enough problems with the train, that adding 80-90 trips would make that intersection more of a nightmare. (When trying to get in, there is already a line backed up to State Ave)

BNSF has had multiple trains stop on the tracks for several hours. That will only become worse with the increased vehicle traffic.

The city already has problems with people camping in worn out, broken down vans and campers in major parking lots, how would the city make sure that doesn't happen in this new parking lot.

Putting in large commercial building at the front of our neighborhood will not help improve the look of our neighborhood, but instead bring down the curb appeal.

We have a nice, quiet, friendly neighborhood. It would be nice to not have that ruined with commercial warehouses.

Applicant's Response: Traffic from this warehouse will be a lot more compatible with existing residential traffic than adding another residential development. The Commercial traffic Peak Hours will be entering the area in the morning as the residential traffic is going out and the opposite in the afternoon Peak Hour. A new residential development will be more frustrating as that traffic would add to the existing flows of vehicles coming in and out.

The Site is Currently zoned for Residential and plans were prepared for a Duplex Development. The Duplex option would be readily permittable and would generate as much or more traffic but it would add to the volume of traffic leaving in the morning and returning in the evening.

Traffic impacts and levels of service are evaluated using data published by the Institute of Transportation Engineers (ITE). From this extensive data, Traffic Engineers are able to provide very sound predictions on future traffic and impacts to intersections. The Commercial Development as proposed, would have less impact to current traffic flows than a Residential Development.

I am sure it is very exasperating trying to leave this area crossing the tracks at times when trains are blocking traffic. This project will not exacerbate that issue.

This property is adjacent to RR Tracks with commercial property to the south. It is isolated from the residential neighborhood by a significant forested ravine and Native Growth Protection Area. The buildings in this proposal will do a lot to provide some noise attenuation from the passing trains to homes in your neighborhood.

Having active businesses at the site will eliminate trespasses. Businesses would not allow old vehicles to park here and it would be monitored daily.

Staff Response: As noted above, the applicant completed a Traffic Impact Analysis that was reviewed and approved by Jesse Hannahs, PE, Traffic Engineering Manager. It is anticipated that approximately 84 Average Daily Trips (ADT) 10 AM Peak Hour Trips (AMPHT) and 10 PM Peak Hour Trips (PMPHT) would be generated from the development. The additional trips would not cause the intersection of 104<sup>th</sup> Street NE and State Avenue to fall below and acceptable level of service.

If developed residentially approximately 14 new single-family detached residences could be constructed. According to the ITE Trip Generation Manual, 14 new single-family residences would generate 132 ADT, 10 AMPHT and 14 PMPHT, which is greater than the anticipated trips for the proposed commercial development.

It will be up to the private property owner and tenants to monitor loitering and illegal parking. The Marysville Police Department is also a resource to assist with clearing of transients and illegal vehicles.

The proposed commercial development is separated from the residential neighborhood by critical areas and slopes. Additionally, the applicant shall be required to enhance the critical area buffer by planting shrubs not less than 5 feet on-center and trees no less than 10 feet on-center. Additionally, a minimum 20 foot, Type L1 (opaque) landscape buffer is required to screen any commercial use from residentially designated properties.

- 8. Critical Areas:** A *Critical Area Report* (Exhibit 006), *Buffer Averaging Report* (Exhibits 020 & 031), and *Preliminary Critical Areas Buffer Mitigation Plan* (Exhibit 032) and *Buffer Mitigation Plan* (Exhibit 010), prepared by Sewall Wetland Consulting, Inc., was submitted with the Project Action Rezone and Commercial Site Plan application. According to these documents, a Type F Stream (Quilceda Creek) and a Category II Wetland (Wetland A) is located along the western portion of the site. Type F Streams require a minimum 150-foot buffer and Category II Wetlands require a minimum 100-foot buffer.

The critical areas were flagged by Ed Sewall, Senior Wetlands Ecologist PWS #212, on the site on September 10, 2018. Mr. Sewall revisited the site on August 13, 2020 and

confirmed there were no changes from the 2018 flagging, and that the flags were still present.

The preliminary site plan depicts the proposed structure intruding 3,022 SF into the Wetland A 100' buffer. As compensation, an additional 4,809 SF of buffer is proposed to be added.

Pursuant to MMC [22E.010.100](#)(5)(a), buffer width averaging shall be allowed only where the applicant demonstrates to the Community Development Department that the averaging will not impair or reduce the habitat, water quality purification and enhancement, storm water detention, ground water recharge, shoreline protection and erosion protection and other functions of the wetland and buffer, that lower-intensity land uses would be located adjacent to areas where buffer width is reduced, and that the total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging.

The proposed area of buffer reduction is generally in the open area with little native woody vegetation. Most of this area has blackberry patches and is grass covered with typical pasture grasses and weeds. The area to be added is generally pasture-like and will require enhancement plantings. This reduction will not impact the various functions the buffer performs protecting the wetland. The proposed averaging will include planting degraded portions of the buffer in the area of the reduction and buffer addition to improve buffer functions. Prior to civil construction plan approval, a FINAL Critical Areas Enhancement and Mitigation Plan will be required to be approved by the Community Development Department.

- 9. Access and Circulation:** Primary vehicular and pedestrian access to the proposed commercial development is proposed via a 22-foot wide driveway off of 104<sup>th</sup> Street NE.
- 10. Traffic Concurrency:** A Traffic Impact Analysis (TIA) was prepared by Gibson Traffic Consultants, Inc., dated August 5, 2021 (Exhibit 012). According to the TIA, the proposed development would generate approximately 84 Average Daily Trips (ADT), 10 AM peak hour trips (AMPHT), and 10 PM peak hour trips (PMPHT).

Jesse Hannahs, PE, Traffic Engineering Manager, reviewed the TIA, and issued a written concurrency recommendation dated July 20, 2023 (Exhibit 043), informing the developer of the project's impacts and mitigation obligation pursuant to Chapter 22D.030, *Traffic Impact Fees and Mitigation*. The conditions of concurrency recommendation are as follows:

- 10.1.** The applicant shall be required to construct full street frontage improvements along 104<sup>th</sup> Street NE prior to issuing occupancy permits. Roadway improvements, channelization, site access, channelization and lighting plans shall be required to be reviewed and approved by the City Engineer prior to construction plan approval.
- 10.2.** The applicant shall be required to dedicate public right-of-way, as needed, in order to accommodate the required frontage improvements along 104<sup>th</sup> Street NE, in accordance with [MMC 12.02A.110](#)(1)(c), *Dedication of Road right-of-way – Required setbacks*. Right-of-way widths and required dedication shall be determined by the City Engineer. Right-of-way dedication shall be required prior to a Certificate of Occupancy being issued.
- 10.3.** In order to mitigate impacts upon the future capacity of the road system, the applicant shall be required to submit payment to the City of Marysville, on a proportionate share cost of the future capacity improvements as set forth in [MMC 22D.030.070](#)(3), for the development. Traffic impact fees shall be vested at a rate of \$2,220 per PMPHT.



The applicant submitted a written proposal, dated July 20, 2023 (Exhibit 044), agreeing to the development's traffic impacts and mitigation measures. Pursuant to MMC [22D.030.070\(6\)\(a\)\(ii\)](#), the traffic concurrency determination and the project's impacts and mitigation obligations shall expire on July 21, 2029.

- 11. Utilities:** Per [MMC 14.03.250](#), utilities are to be extended along the street frontages of the proposed project. Extensions of sewer and water mains as well as a storm drain system for the roadway extension will be required. The following utilities will be provided to the site:

**11.1. Storm Drainage:** According to the *Preliminary Stormwater Site Plan*, prepared by Land Technologies, Inc., dated May 2023, rooftops will be conveyed to onsite infiltration trenches. 945 lineal feet of trench will be provided for the full infiltration of rooftop generated stormwater.

Roads and driveways will be routed to bioretention areas. The bioretention cells will treat stormwater through filtering, phytoremediation, and microbial action from within the compost. A combination of bioretention cell and rockbed will treat 100% of incoming stormwater generated from the site.

**11.2. Water:** The applicant is proposing to tie into the existing 10-inch cast iron (CI) water main within 104<sup>th</sup> Street NE and extend on site in order to provide water service and adequate fire flow.

**11.3. Sewer:** The applicant is proposing to tie into the existing 8-inch sewer main within 104<sup>th</sup> Street NE and extend on site to serve the development.

If the rezone is approved, review of required utilities will be addressed during civil construction plan review to ensure compliance with all of the applicable Marysville Municipal Codes.

- 12. Application Review:** [MMC 22G.010.140\(3\)](#) requires the City to determine whether or not the project is consistent with the following items described in the applicable plans and regulations:

**12.1.** *Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned residential development and conditional uses, if the criteria for their approval have been satisfied.*

Staff Comment: The subject property is currently zoned Medium Density, Single-family (R-4.5). The applicant has proposed a Project Action Rezone to change the zoning designation to General Commercial (GC). If the rezone is approved, office and warehouse uses, as proposed by the applicant, are permitted outright in the GC zone.

**12.2.** *Density of residential development in urban growth areas.*

Staff Comment: The applicant has proposed a Project Action Rezone to change the zoning designation to GC. If the rezone is approved, Commercial uses would be pursued on the site.

**12.3.** *Availability and adequacy of public facilities identified in the Comprehensive Plan.*

Staff Comment: The applicant has proposed a Project Action Rezone to change the zoning designation to GC. The proposed development has been reviewed for compliance with the Comprehensive Plan to ensure consistency with the goals and policies related to the GC designation, including the specific criteria for the Marshall Neighborhood of Planning Area 8.

Staff finds that the proposed development, as conditioned, is consistent with the City of Marysville Comprehensive Plan.

#### **12.4. Development Standards**

Staff Comment: The applicant has proposed a Project Action Rezone to change the zoning designation to GC. The purpose of the GC zone is to provide for the broadest mix of commercial, wholesale, service and recreation/cultural uses with compatible storage and fabrication uses, serving regional market areas and offering significant employment.

The proposed development and subsequent use of the property will comply with the intent of the GC zone, and as conditioned herein, will meet all of the applicable development standards outlined in [MMC Title 22, Unified Development Code](#).

The proposed development, as conditioned herein, makes appropriate provisions for the public use and interest, health, safety and general welfare.

#### **13. Comprehensive Plan Rezone Criteria:** MMC [22G.010.440](#)(1) requires the applicant for a zone reclassification to demonstrate that the proposal is consistent with the Comprehensive Plan, and applicable functional plans, and complies with the following criteria:

##### **13.1.** There is a demonstrated need for additional zoning as the type proposed;

Applicant response: Per statistics in the Comprehensive Plan, Marysville has 0.54 jobs-to-housing (jth) ratio which means half the workforce residents commute out of town for work. Per the Marysville Comprehensive Plan there is a stated goal of making that 1.0 jth, which is very aggressive. To even get close to this ratio, a lot of good jobs will be needed.

The Growth Management Act (GMA) intends to increase this working local with its directives.

Working in the community keeps cars off the freeways.

Sixty four percent of the new jobs created in the US are by Small Businesses per the Small Business Administration. This project provides support to existing and new entrepreneurs needing office and warehouse space.

This project converts a site that would currently provide housing (a poor site for that use) into a site that promotes jobs. Given the adjacent railroad tracks and main arterial, this site is great for jobs and bad for homes.

##### **13.2.** The zone reclassification is consistent and compatible with uses and zoning of the surrounding properties;

Applicant response: Immediately to the south the land is currently zoned General Commercial. Adjacent to the east are the Burlington Northern Railroad Tracks and then a Principal Arterial—State Street. The frontage properties on the east side of State Street are zoned General Commercial.

Along the west boundary of this property is a large Open Space that includes Quilceda Creek—a fish stream. The Creek has incised a significant ravine. There is a 100' buffer from the top of the bank which is just west of this site's property line. This buffer and ravine are heavily forested with mature evergreen trees. This natural topography and vegetation will provide a great transitional buffer between commercial use on this site and the residential community west of the ravine.

##### **13.3.** There have been significant changes in the circumstances of the property to be rezoned, or surrounding properties, to warrant a change in classification; and

Applicant response: There are likely several others not mentioned here, but two significant changes in the circumstances is a recent surge in population coming

to Marysville and the upgrades to State Street and the Bridge Crossing Quilceda Creek.

Due in part to developable land becoming hard to find in the southern part of the county, the last few years has had a real surge in residential development in the city. Residential development, while a good thing, does not help the city meet its goals of getting to that 1.0 jth ratio. The approvals and development of the Cascade Industrial Center (CIC) has also drawn a lot of interest in commercial and industrial zoning to the City.

The rebuilding of the Quilceda Creek Bridge from an old 2 lane bridge to a new 4 lane bridge along with similar improvements all along State Street has also made Commercial Use of this site more feasible. This upgrade in road since the 2015 Comp Plan, now provides 4 lane arterial routes to either the north or the south.

- 13.4.** The property is practically and physically suited for the uses allowed in the proposed zone reclassification.

Applicant response: Discussion above does show how the property is practically suited for the proposed zoning reclassification. It does face the Principal Arterial and short access to that road, albeit over the RR Tracks as is very common in Marysville.

A sewer manhole located at the SE corner of the site and a substantial water main crosses along the frontage on 104 St NE. Stormwater management will be efficient as the soils are deep sands that are very compatible with infiltration.

Physically, the property is level and very suited for the proposed use. The site, given its frontage on the railroad and State Street, is much more suited for General Commercial Use than it is for residential use.

The applicant's responses outlined above are excerpted from Exhibit 003.

After evaluation of the applicant's written response, and other supporting documentation and application materials, the proposed rezone, as conditioned herein complies with the rezone criteria and applicable development standards outlined in [Title 22 MMC, Unified Development Code](#).

- 14. Rezone Criteria – Edge of Land Use Districts:** Pursuant to [MMC 22G.010.440\(2\)](#), properties at the edges of land use districts can make application to rezone property to the bordering zone without applying for a Comprehensive Plan map amendment if the proponent can demonstrate the following:

- 14.1.** The proposed land use district will provide a more effective transition point and edge for the proposed land use district than strict application of the comprehensive plan map would provide due to neighboring land uses, topography, access, parcel lines or other property characteristics;

Applicant response: This is a long narrow strip of property of 3.19 acres that is sandwiched between the Rail Road Tracks and a deep ravine carved out by Quilceda Creek. The proposed buildings will only be about 100' from passing trains. On the other side of the railroad is a Principal Arterial—State Street. Not the ideal scenario for blissful residential development.

General Commercial zoning is directly south of this parcel and there is another peninsula of GC zoning adjacent to the east frontage of State Street.

Adjacent to the west property line is a large Critical Area with Quilceda Creek set in a deep ravine. This critical area and the topography that goes with it makes a great transition to residential west of the Creek and ravine. The Creek, ravine, and buffers to the fish stream provide a three hundred foot natural buffer between homes in the residential community and building that would be on this site.

- 14.2.** The proposed land use district supports and implements the goals, objectives, policies and text of the comprehensive plan more effectively than strict application of the comprehensive plan map; and

Applicant response: Marysville is considered a “bedroom” community by virtue of the statistics of the number of people that work in “town” versus those that commute out of town to work. Per statistics from 2012, Marysville has 0.54 jobs per housing unit. About half the workforce that lives in Marysville gets on the freeway and drives off to other communities to work; no wonder the freeways are jammed. Not only is there the stated “...*desire to improve the jobs-to-housing ratio*” in the current Comprehensive Plan but it is the goal of the Growth Management Act to reduce transportation impacts by providing jobs in the local community.

From the General Development Land Use Goals and Policies, we have *Goal 3. Promote a healthy economy by improving the jobs to housing ratio.* In order to attain more balance in the jobs to housing ratios, the Comp Plan set an objective of a jobs-to-housing ratio of 1.0 by the year 2035. That is an ambitious goal and this request to convert land now zoned for houses to a site that would create employment can help with that goal.

This conversion is consistent with the Marysville Comprehensive Plan Land Use Policies, in particular LU-4 strives to “*Encourage growth that will transform Marysville from a residentially dominated community to one that provides a balanced, though not equal, proportion of both residences and employment*”.

General Land Use Policy LU-12 states “*Provide balanced employment opportunities for the local labor force through varied economic development that is clean and pollution free, and the establishment and protection of small entrepreneurs*”. It should be pointed out that while it is nice to have a big commercial and industrial business come to town, one of the largest employment groups in the country are the small business entrepreneurs. The Small Business Administration (SBA) states that 64% of the new jobs created in the U.S. are generated by small businesses. The type of development proposed for this site fully supports the small type businesses by providing office space and warehouse for those small business entrepreneurs.

This proposal is consistent with Commercial Land Use Goals and Policies and more specifically with LU-60, LU-61, and LU-81.

This proposal is consistent with the Economic Development Goals, Objectives, and Policies.

Generally speaking, this property with its exposure to the railroad and State Avenue is not ideally suited for residential development. This exposure is more suited to commercial and industrial type uses. Given the adjacent commercial zoning to the south, this property would be best suited for General Commercial Zoning.

The large ravine with the creek and steep topography provides a natural transition for the residential community to the west.

- 14.3.** The proposed land use change will not affect an area greater than 10 acres, exclusive of critical areas.

Applicant response: This proposed rezone request affects 3.19 acres of land which does include a critical area buffer.

The applicant’s responses outlined above is excerpted from Exhibit 003.

After evaluation of the applicant’s written response, and other supporting documentation and application materials, the proposed rezone, as conditioned herein, will be consistent

with the applicable development goals and policies outlined in the Marysville Comprehensive Plan.

**15. Hearing Examiner – Required Findings:** [MMC 22G.010.170\(3\)](#) requires that the Hearing Examiner not approve a proposed development without first making the following findings and conclusions:

**15.1.** *The development is consistent with the comprehensive plan and meets the requirements and intent of the Marysville Municipal Code.*

Staff Comment: The Comprehensive Plan designation for the subject property is Medium Density, Single-family (R-4.5). The applicant has proposed a Project Action Rezone to change the zoning designation to General Commercial (GC). If the rezone were approved, the proposed development and subsequent use of the property would be consistent with the pertinent development policies outlined in the Marysville Comprehensive Plan and the Marysville Municipal Code, as conditioned herein.

**15.2.** *The development makes adequate provisions for open space, environmentally sensitive areas, drainage, streets and other public ways, transit stops, water supply, sanitary wastes, public utilities and infrastructure, parks and recreation facilities, playgrounds, sites for schools and school grounds.*

Staff Comment: Based on a review of the *Critical Area Report* (Exhibit 006), *Buffer Averaging Report* (Exhibits 020 & 031), *Preliminary Critical Areas Buffer Mitigation Plan* (Exhibit 032), *Environmental Checklist* (Exhibit 008), *Geotechnical Report* (Exhibits 009 & 033), *Stormwater Report* (Exhibits 010 & 034), *Stormwater Pollution and Prevention Plan* (Exhibits 011 & 035), *Traffic Impact Analysis* (Exhibit 012) and *Preliminary Civil Construction Plan* (Exhibit 039), if the Project Action Rezone were approved, future development would make adequate provisions for open space, environmentally sensitive areas, drainage, streets and other public ways, transit stops, water supply, sanitary wastes, public utilities and infrastructure, parks and recreation facilities, playgrounds, sites for schools and school grounds.

**15.3.** *The development is beneficial to the public health, safety and welfare and is in the public interest.*

Staff Comment: After reviewing the application materials (Exhibits 001 – 050) and reviewing to ensure compliance with the applicable provisions outlined in the Marysville Comprehensive Plan and MMC, if the rezone were approved, future development would be beneficial to the public health, safety and welfare and would be in the public interest as the development would be designed in accordance with applicable MMC requirements.

**15.4.** *The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan. If the development results in a level of service lower than those set forth in the comprehensive plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to complete the improvements or strategies within six years of approval of the development.*

Staff Comment: As conditioned, the development would not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan.

**15.5.** *The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development, and are proportional to the impacts created by the development.*

Staff Comment: As conditioned, the area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development, and are proportional to the impacts created by the development.

## **2.0 RECOMMENDATION**

Based on the foregoing findings and conclusions, review of the application materials and other supporting documentation available to the Community Development Department, and the City's regulatory authority to implement the policies, standards, and regulations of the Marysville Comprehensive Plan and Marysville Municipal Code, the Community Development Department respectfully recommends that the Hearing Examiner **APPROVE** the proposed Project Action Rezone to change the zoning designation from Medium Density, Single-family (R-4.5) to General Commercial (GC) in order to construct two single story office/warehouse buildings totaling approximately 30,600 SF, subject to the following conditions:

1. The preliminary site plan received by the Community Development Department (Exhibit 038) shall be the approved preliminary site plan layout.
2. All necessary power lines, telephones wires, television cables, fire alarm systems and other communication wires, cables or lines shall be placed in underground location either by direct burial or by means of conduit or duct. All such underground installations or systems shall be approved by the appropriate utility company and shall adhere to all governing applicable regulations including, but not limited to, the applicable City and State regulations and specific requirements of the appropriate utility pursuant to [MMC 22G.120.270](#).
3. Pedestrian pathways that traverse a parking area or drive-aisle are required to be constructed with concrete pavers or decorative colored, or stamped concrete clearly denoting the pedestrian pathway. This detail shall be provided on the civil construction plans.
4. Prior to civil construction plan approval, a FINAL Landscape Plan shall be approved and designed in accordance with the applicable landscaping standards outlined in [MMC Chapter 22C.120 Landscaping and Screening](#), including:
  - 4.1. A 20', Type L1 landscape buffer, plus a 6-foot sight-obscuring fence or wall, between the commercial uses and all properties designated single-family by the Marysville Comprehensive Plan.
5. Prior to civil construction plan approval, an illumination plan shall be designed and approved in accordance with applicable lighting standards outlined in [MMC 22C.130.050\(3\)\(d\)](#).
6. Prior to building permit issuance, the applicant shall be required to demonstrate all mechanical equipment located on the roof, façade or external portions of a building are architecturally screened so as not to be visible from adjacent properties at street level or the public street. Mechanical equipment shall be screened by a primary building element or structure.
7. Utility meters, electrical conduit, and other service utility apparatus shall be located and/or designed to minimize their visibility to the public. If such elements are mounted in a location visible from the street, pedestrian pathway, common open space, or shared auto courtyards, they shall be screened by landscaping, fences, or

walls.

8. Prior to building permit issuance, the applicant shall be required to demonstrate compliance with the site and building design standards outlined in [MMC 22C.020.250](#).
9. The applicant shall be required to comply with the six (6) mitigation measures outlined in the State Environmental Policy Act (SEPA) Mitigated Determination of Non-Significance (MDNS) issued on July 21, 2023 (Exhibit 045).

### **3.0 EXHIBITS**

The following Exhibits can be accessed electronically via the link provided in the exhibit header below.

#### [PA22041 – Dell’s Nursery Rezone](#)

001	Land Use Application	028	Fire Flow Results
002	Project Narrative	029	Snohomish County Traffic Mitigation Offer
003	Rezone Criteria Responses	030	Critical Areas Comment Response
004	Vicinity Map	031	Critical Areas Buffer Averaging Proposal
005	Critical Areas Application	032	Critical Areas Buffer Mitigation Plan
006	Critical Areas Report	033	Geotechnical Report
007	Title Report	034	Drainage Report
008	Environmental Checklist	035	SWPPP
009	Geotech Report	036	Site Lighting Concept
010	Stormwater Report	037	Landscape Plan
011	Stormwater Pollution & Prevention Plan (SWPPP)	038	Site Plan
012	Traffic Impact Analysis	039	Civil Plans
013	ARCH Site Plan	040	Request for Review
014	ARCH 3-D Rendering	041	Snohomish County Traffic Offer
015	ARCH 104 <sup>th</sup> Street Rendering	042	Technical Review Comments No. 2
016	Landscape Plan	043	Concurrency Recommendation
017	Site Plan	044	Concurrency Acceptance
018	Civil Plans	045	SEPA Mitigated Determination of Non-Significance (MDNS)

019	104 <sup>th</sup> Street LLC Boundary Line Adjustment	046	Notice of SEPA MDNS
020	Critical Areas Buffer Averaging Proposal	047	Affidavit of Publication
021	Letter of Completeness	048	Affidavit of Publication
022	Notice of Application	049	SEPA Comments
023	Request for Review	050	Response to SEPA Comments
024	Affidavit of Publication	051	Notice of Public Hearing
025	Technical Review Comments	052	Affidavit of Publication
026	Technical Review Response	053	Staff Recommendation
027	Response to Neighbors Comments		